

ATTACHMENT E

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 09/640,526 | 08/17/2000 | Paul Clement Nicolson | CL/V-20676F | 6172 |

1095 7590 03/22/2002
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EXAMINER

MICHL, PAUL R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1714

DATE MAILED: 03/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-11

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on 1/7/02 2/26/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 159-242 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 159-182 is/are allowed.
- ☒ Claim(s) 183-242 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

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Claims 183-242 are rejected under the judicially created doctrine of obviousness double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 5,965,631 and over all of the claims of U.S. Patent No. 5,760,100 and its Reexamination Certificate and over all of the claims of U.S. Patent No. 5,776,999 and its Reexamination Certificate. Claims 183-242 are directed to surface treated contact lens made from oxyperm material and ionoperm material having separate phases. The claims of these three patents are also directed to surface treated contact lens made from oxyperm material and ionoperm material having separate phases. The methods and the contact lens recited in applicants' claims 183-242 would be obvious to one of ordinary skill in the art from the methods and contact lenses of the claims of these three patents.

Applicants' arguments concerning the 35 U.S.C. § 103 rejections of the July 6, 2001 Office action are persuasive.

Claims 159-182 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Michl whose telephone number is (703) 308-2451. The examiner can normally be reached on Monday through Friday from 7:30 A.M. to 4 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for this Group is (703) 305-5433.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

PRMichl:cdc

March 21, 2002


PAUL R. MICHL
PATENT EXAMINER
ART UNIT 156